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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/208,942	12/10/1998	RICHARD G KETCHUM	09857/009001	8833
26161	7590	04/03/2009	EXAMINER	
FISH & RICHARDSON PC			NGUYEN, NGA B	
P.O. BOX 1022				
MINNEAPOLIS, MN 55440-1022			ART UNIT	PAPER NUMBER
			3692	
			NOTIFICATION DATE	DELIVERY MODE
			04/03/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com



### DETAILED ACTION

1. This Office Action is the answer to the Amendment filed on December 9, 2008, which paper has been placed of record in the file.
2. Claims 1-26 are pending in this application.

### *Response to Arguments/Amendment*

3. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of new grounds of rejection.

Applicant's amendments regarding to claims 1-18 overcome 35 USC § 101. Therefore, the examiner withdraws the rejection and places the claims in condition for allowance.

Applicant's arguments regarding to claims 19-26 do not overcome 35 USC § 101 because the claims recite a computer program product comprising "instructions" that is not clearly computer executable instructions. Therefore, the examiner maintains the rejection.

4. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 19-26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 19-26 recite “instructions” that is not clearly computer executable instruction.

***Allowable Subject Matter***

7. Claims 1-18 are allowed over the prior arts cited of record.

***Conclusion***

8. Claims **19-26** are rejected.

Claims **1-18** are allowed

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (571) 272-6796. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702.

10. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
P.O. Box 1450  
Alexandria, VA 22313-1450

Or faxed to:

(571) 273-8300 (for formal communication intended for entry),

or

(571) 273-6796 (for informal or draft communication, please label "PROPOSED" or "DRAFT").

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nga B. Nguyen/

Primary Examiner, Art Unit 3692

March 23, 2008